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THE PRESIDENCY

No. 1237 23 November 2001

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 27 of 2001: Agricultural Research Amendment Act, 2001



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 12 November 2001.)

ACT

To amend the Agricultural Research Act, 1990, so as to make further provision for the procedure to be followed in the appointment of members of the Council; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 9 of Act 86 of 1990, as substituted by section 1 of Act 16 of 1996

1. Section 9 of the Agricultural Research Act, 1990, is hereby amended by— 5
- (a) the substitution for subsection (3) of the following subsection:
- “(3) (a) Whenever a member of the Council has to be appointed, the Minister shall—
- (i) by notice in **[at least two national newspapers and so many local newspapers as the Minister may determine]** the Gazette and other appropriate media, invite persons, stakeholders, the Premier of each province and the Portfolio and Select Committees of Parliament responsible for agricultural affairs to submit to **[him or her]** the Minister, within the period mentioned in the notice, the names of persons who comply with the criteria referred to in paragraph (a) of subsection (2); 10 15
- (ii) establish a selection committee consisting of **[the number of]** at least three persons [which the Minister may determine], designate a chairperson for the committee and submit to the committee all the nominations received.
- (b) **[The chairperson of the appropriate committee of the National Assembly and the chairperson of the corresponding committee of the Senate, or their delegates, shall be members of the committee referred to in paragraph (a)(ii).]** 20
- [(c)] The selection committee [referred to in paragraph (a)(ii)] shall, within 30 days after the signing of the letters of appointment of its members, from the nominations submitted to it by the Minister, compile a short-list of eligible candidates who have knowledge and experience of any matter referred to in subsection (2), and submit it to the [Parliamentary committees referred to in paragraph (b)] Minister. 25
- (c) The Minister shall appoint such number of members as is required from the short-list of candidates recommended by the selection committee. 30
- (d) Within 30 days after making any appointment in terms of paragraph (c), the Minister shall inform the Portfolio and Select Committees of Parliament responsible for agricultural affairs in writing of the appointment made.

[(e) A member of the Council shall be appointed by the Minister after due consideration of the recommendation made to him or her in terms of paragraph (d): Provided that if the Minister does not agree with the recommendation, the Minister shall refer the matter back to the Parliamentary committees referred to in paragraph (b) for consultation.]"; and 5

(b) the addition of the following subsection:

"(5) A person may not be nominated or appointed as a member of the Council if such person—

- (a) is not a South African citizen or permanently resident in the Republic; 10
- (b) is an unrehabilitated insolvent in respect of whom the trustee of the insolvent estate has not certified that the insolvent is a fit and proper person to serve as a member of the Council;
- (c) has failed or is unable to comply in full with a judgment or order, including an order as to costs, given against such person by a court of law in civil proceedings; 15
- (d) has been convicted of an offence involving an element of dishonesty or has been sentenced for any other offence committed on or after 27 April 1994 to a period of imprisonment without the option of a fine;
- (e) is of unsound mind; or 20
- (f) has contravened a provision of section 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), and it has been so determined by an equality court."

Amendment of section 12 of Act 86 of 1990, as amended by section 2 of Act 16 of 1996 25

2. Section 12 of the Agricultural Research Act, 1990, is hereby amended—

(a) by the insertion of the following paragraph in subsection (2):

"(a) he or she has contravened a provision of section 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), and it has been so determined by an equality court;" 30

(b) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

"(f) he or she is nominated as a candidate for election as a member of Parliament, a Provincial House of Traditional Leaders, the [Council] National House of Traditional Leaders, [the Volkstaat Council,] a provincial legislature, or the council or other governing body of a local government body or is appointed as an official of a political party and whose functions as such are incompatible with the functions of a member; or"; and 35 40

(c) by the substitution for subsection (4) of the following subsection:

"(4) If a member dies or by written notice, directed to the Minister, resigns or in terms of subsection (2) or (3) ceases to be a member, the Minister shall [subject to the provisions of section 9,] appoint a suitable person in [his place] the vacancy for the unexpired period of [his] the relevant term of office." 45

Short title

3. This Act is called the Agricultural Research Amendment Act, 2001.